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## BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER, CHAIRMAN  
MARC SPITZER, COMMISSIONER  
WILLIAM A. MUNDELL, COMMISSIONER  
MIKE GLEASON, COMMISSIONER  
KRISTEN K. MAYES, COMMISSIONER

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AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF DIVERSIFIED  
WATER UTILITIES, INC. TO EXPAND ITS  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO INCLUDE ALL OF  
SECTION 13, 14, 15, 23 AND THAT  
PORTION OF SECTION 16 EAST OF  
RAILROAD TRACKS ALL IN T3S, R83,  
PINAL COUNTY, ARIZONA.

DOCKET NO.: W-02859A-04-0844

IN THE MATTER OF THE APPLICATION  
OF JOHNSON UTILITIES COMPANY FOR  
AN EXTENSION OF ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WATER SERVICE.

DOCKET NO. WS-02987A-04-0869

DIVERSIFIED WATER UTILITIES, INC.  
AMENDED AND SUPPLEMENTED  
APPLICATION

Diversified Water Utilities, Inc., ("Diversified"), by and through its attorneys,  
hereby amends and supplements its Application filed on November 24, 2004, as corrected by  
letter dated December 9, 2004 (correcting the Township reference in the legal description)  
and supplemented by the Filing of Supplemental Information dated February 3, 2005  
(collectively, the "Application"), as follows:

1. Diversified hereby amends the Caption and introductory paragraph of the  
Application (consistent with the Letter of Mutual Understanding, Cooperation and Settlement  
(the "LMU") entered into between Diversified and Johnson Utilities Company ("JUC") dated

1 June 7, 2005 and filed in this docket on June 30, 2005 with the Joint Settlement Statement of  
2 JUC and Diversified) to define the "Expanded Area" as Sections 13, 14, 15 and that portion  
3 of Section 16 East of the Union Pacific Railroad right-of-way, all within T3S, R8E, Pinal  
4 County, Arizona and excluding Section 23, T3S, R8E, Pinal County, Arizona.  
5

6 2. Pinal County is experiencing phenomenal development. The Expanded  
7 Area is in the direct path of that development. Most of the Expanded Area is part of a Master  
8 Planned Development approved by the Pinal County Board of Supervisors as the Bella Vista  
9 Farms Development.  
10

11 3. No public or private utility is authorized to provide domestic water  
12 service within the Expanded Area.

13 4. The Commission has previously recognized a need for utility service  
14 within all or portions of the Expanded Area with regard to sewer service (Decision No.  
15 64042, amending Decision No. 63960). It is unfathomable that a need for sewer service  
16 exists in an area, without a concomitant need for water service.  
17

18 5. During the proceeding that resulted in the issuance of Decision No.  
19 64062, "Ms. Aleman testified that her company, SPI, is in the process of co-developing parcel  
20 2, Bella Vista Farms ('Bella Vista'), an area which lies partially in Diversified's existing  
21 certificated area and also outside of its certificated area, but contiguous to Diversified's  
22 southern boundary." Finding of Fact 29, Decision No. 64062.  
23

24 6. Ms. Aleman further testified that Bella Vista "is to be a master planned  
25 development completed 'hopefully within the next three years or so.'" She described the  
development as consisting of 3,800 acres which is controlled by SPI and other developers

1 who plan to build between 12,000 and 13,000 homes there.” Finding of Fact 31, Decision  
2 No. 64062.

3           7.     Based upon the evidence submitted, the Administrative Law Judge found  
4 there was a need for water service in the Expanded Area. The Commission, however,  
5 concluded that “because of uncertainty with respect to the Skyline District and potential  
6 litigation in the state court” all water applications for this area should be denied “at this time,”  
7 but that a certificate for wastewater service should be granted. Finding of Fact No. 171,  
8 Decision No. 64062.

9  
10           8.     During the current proceedings, Ms. Aleman, together with Ms. Penny  
11 Wolfswinkel made a renewed request for water service for Section 13, T3S, R8E, Pinal  
12 County, Arizona on behalf of Wolfkin Farms. A similar request was made on behalf of  
13 Centex Homes which was in the process of purchasing the property. See, Exhibit 1 to JUC’s  
14 Application filed December 3, 2004.

15  
16           9.     Subsequently, a series of affidavits of persons claiming to own land  
17 within the Expanded Area were filed in this docket on May 4, 2005 supporting a stay of the  
18 present proceeding.

19  
20           10.    The State of Arizona has indicated that it has no objection to having the  
21 lands it owns within the Expanded Area included within a water provider’s Certificate of  
22 Convenience and Necessity. A copy of the Arizona State Land Department’s April 26, 2005  
23 letter is attached as Exhibit 1.

24  
25           11.    The Expanded Area has been the subject of complex and costly contested  
proceedings before both the Arizona Corporation Commission and the courts. Such disputes

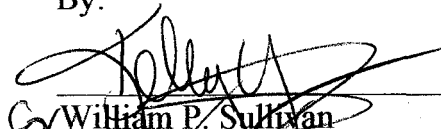
1 create uncertainty and confusion regarding the availability of water service. The public  
2 interest is not served by prolonging such uncertainty or by allowing landowners to  
3 consistently flip flop regarding their need for service.

4  
5 12. The public interest is served by granting a certificate of convenience and  
6 necessity for the Expanded Area to Diversified.

7 DATED this 30<sup>th</sup> day of November, 2005.

8  
9 CURTIS, GOODWIN, SULLIVAN,  
UDALL & SCHWAB, P.L.C.

10  
11 By:

12   
13 for William P. Sullivan  
14 2712 North 7th Street  
15 Phoenix, Arizona 85006-1090  
16 Attorneys for Diversified Water Utilities,  
17 Inc.  
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Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

**Dwight D. Nodes, Administrative Law Judge**  
**Arizona Corporation Commission**  
**1200 West Washington Street**  
**Phoenix, Arizona 85007**

Ernest Johnson, Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

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2525 East Arizona Biltmore Circle, #117  
Phoenix, AZ 85016

Mary Walker  
1620/-3-2/pleadings/application amendment\_supplement

# EXHIBIT 1

Janet Napolitano  
Governor

Mark Winkleman  
State Land  
Commissioner

Arizona  
State Land Department



1616 West Adams Street Phoenix, AZ 85007 [www.land.state.az.us](http://www.land.state.az.us)

April 26, 2005

Diversified Water Utilities, Inc.  
Attn: Scott W. Gray  
2850 E. Camelback Rd., Suite 200  
Phoenix, AZ 85016-4316

**RE: Request to add State Trust land to a service area**

Dear Mr. Gray:

On March 22, 2005, you notified the Arizona State Land Department of your application to the Arizona Corporation Commission (ACC) to add Section 14, Township 3 South, Range 8 East to your certificated area. A portion of this section is State Trust land, consisting of 325.46 acres.

After considering comments from within the agency, it has been determined it is in the best interest of the State Trust land to be included in a certificated area for water delivery. However, we wish to remain neutral as to who the water provider should be for this land, so we leave the decision on the holder of the certificated area to the ACC.

If you have any questions, please contact Cynthia Stefanovic, Water Rights and Agriculture Section at (602)542-2669.

Sincerely,

Mark Winkleman  
State Land Commissioner

HAK/